

TaxNewsFlash

United States



No. 2021-316
August 2, 2021

KPMG report: Marketplace facilitator updates (Alabama, Missouri, New Mexico)

Brief summaries of marketplace-related developments in Alabama, Missouri, and New Mexico include the following administrative items.

- **Alabama:** The Department of Revenue issued guidance (Notice 21-07) on marketplace facilitators and the "simplified sellers use tax." In Alabama, effective January 1, 2019, marketplace facilitators that meet a sales economic nexus threshold of \$250,000 can elect to comply with notice-and-reporting requirements or collect sales and use tax on facilitated sales. Rather than collect tax at the precise local rates, marketplace facilitators are required to collect the simplified sellers use tax (SSUT) at a rate of 8%, and then remit that tax to the Department which, in turn, will distribute one-half of the proceeds to local governments based on population. Collection and remittance of the SSUT relieves the marketplace facilitator, the marketplace seller, and the purchaser from any additional state or local sales and use tax on transactions made through the marketplace. The Department's guidance confirms that the SSUT rate applies even when the marketplace seller is a brick-and-mortar business. Specifically, Notice 21-07 provides that "restaurants, grocery stores, beverage stores, other retail businesses and individuals selling products through a marketplace facilitator platform are considered a marketplace seller."
- **Missouri:** The Department of Revenue issued Letter Ruling 81-51 addressing the obligations of a vendor that makes sales through a marketplace facilitator. Under Missouri law, marketplace facilitators are required to collect and remit sales and use tax (effective January 1, 2023). In the letter ruling, the vendor requested guidance on the proper reporting of sales made through a marketplace facilitator that collected sales and use tax from the customer and then remitted it to the state under the facilitator's tax account. The letter ruling confirms that in this instance, the taxpayer is still the vendor of the product and is required to remit the applicable taxes to the state until the marketplace facilitator law becomes effective. In seemingly recognizing that the marketplace facilitator likely handled all payments made by customers, the Department noted that it was permissible for the vendor to delegate its responsibility to collect tax from the customer to the marketplace facilitator. Yet, the vendor's use tax returns must be accompanied by a remittance of the full amount of the tax required to be collected by the vendor during the period covered by

the return. The vendor cannot delegate responsibility for the tax remittance because such delegation would cause its own returns to be incomplete.

- **New Mexico:** The Department of Taxation and Revenue issued guidance (FYI-206) to address the obligations of marketplace facilitators and sellers and how the new destination sourcing rules apply to such sales.

Read an [August 2021 report](#) prepared by KPMG LLP

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